

LANDLORD AND TENANT.

We read in the *Law Times* of Saturday last the report of a case, *Doe dem. Fleming and Another v. Duckat*, recently tried at Croydon before Lord Chief Justice TINDAL, in which some most important questions were raised touching the remedy given to lessors by the statute 4 Geo. 2, c. 28, sec. 2, by which, if a half-year's rent be in arrear, the landlord can re-enter, serving a declaration in ejectment. That section enacts that, "in all cases between landlord and tenant, as often as it shall happen that one half-year's rent shall be in arrear, and the landlord or lessor, to whom the same is due, hath right by law to re-enter for the non-payment thereof, such landlord or lessor shall and may, without any formal demand or re-entry, serve a declaration in ejectment for the recovery of the demised premises; or in case the same cannot be legally served, or no tenant be in actual possession of the premises, then to affix the same upon the door of any demised messuage, or in case such ejectment shall not be for the recovery of any messuages, then upon some notorious place of the lands, tenements, or hereditaments, comprised in such declaration in ejectment, and such affixing shall be deemed legal service thereof, which service or affixing such declaration in ejectment, shall stand in the place or stead of a demand and re-entry; and in case of judgment against the casual ejector, or nonsuit for not confessing lease, entry, or ouster, it shall be made to appear to the court where the said suit is depending, by affidavit, or be proved upon the trial, in case the defendant appears, that half a year's rent was due before the said declaration was served, and that no sufficient distress was to be found on the demised premises, countervailing the arrears then due, and that the lessor or lessors in ejectment had power to re-enter; then and in every such case the lessor or lessors in ejectment shall recover judgment and execution in the same manner as if the rent in arrear had been legally demanded and a re-entry made." The words "no sufficient distress was to be found on the demised premises" mean no sufficient distress which can be got at: thus, when the outer door was locked, so that the landlord could not get at the premises, Lord Tenterden held, that there was not any sufficient distress, for there was not any available distress.

It happens, however, not infrequently, that the tenant is let into possession under an agreement for a demise, instead of under an actual demise; and then the question arises whether the agreement is sufficient to support proceedings under the statute. Such was the fact in the case recently tried at Croydon.

"The plaintiffs are trustees over a certain estate in the county of Surrey: their agent verbally let a tenement to one Perkins, and soon after, when alone, made the following minutes of the letting. 'Nov. 17, 1840. Agreement—Joint estate—Thomas Perkins, of No. 16, New-street, Kennington, to take the premises, late Warner, in Manor-place, consisting of a cottage, with garden-ground, for seven years, subject to being given up, should the same be required for building, at the rent of 25/-, pay all taxes of every description, and usual covenants.' Without showing this document to the trustees, or Perkins, the tenant, the agent called upon Mr. Fleming, the solicitor to the estate, to prepare the lease at the rental mentioned, with insertion of the 'usual covenants.' Perkins, without waiting to execute the lease (and a knowledge of the agent's instructions to Mr. Fleming not being established as against Perkins), left the house, and let in a family named Duckat, who refused to pay rent or acknowledge any landlord but Perkins, and kept the house partially closed and bolted; so that it was impossible to ascertain whether a sufficient distress could be made. Perkins being gone, no lease executed, nor any thing to levy upon except an old bedstead, as proved at the trial, the present action of ejectment was brought, when the Duckat family denied the title of the plaintiffs.

"A severe contest between the counsel took place on the operation of the statute 4 Geo. 2, c. 28; the plaintiffs contending that, assuming there was a valid demise, under the circumstances, the action of ejectment was well brought under the intended clause of re-entry, to bring them within the benefit of that statute."

The counsel for the defendant, on the other hand, raised the following questions:—

"Is the memorandum made in and under the peculiar circumstances of this case a parcel demise or not, and if so, then within the operation of the

stat. 4 Geo. 2, c. 28, or will it bear such construction by the operation of law, to enable both landlord and tenant so to act as to entitle the alleged tenant to have a seven years' lease granted, incorporating the usual covenants contained in such an instrument, and likewise entitle the landlord to an enforcement of his rights, as though such lease had been duly prepared, and the covenants duly set forth, on breach of any one? Or is the tenant merely under a yearly holding?

"Do the facts disclosed in this case shew a sufficient stipulation in law, that a lease shall at a future period be executed between the parties, containing the usual covenants, upon the breach of any one of which (particularly the covenants not to assign, or on non-payment of rent, a right of re-entry), would entitle the plaintiff to recover sufficient damages to cover the amount of rent due in an action for use and occupation, the tenant quitting without leaving a sufficient distress on the premises to pay the rent, so as to prevent the necessity of the landlord going into a court of equity for specific performance: the whole facts, when taken together, operating in equity as a valid demise for seven years?

"Will the bare minutes of letting, placed on paper by an agent of the alleged lessor, after such agent has arranged with a tenant, be sufficient and binding instructions to justify a solicitor to prepare a lease between the landlord and tenant (such minutes not having been shown either to the landlord or tenant to receive their approval), and also authorize in such lease the insertion of such 'usual covenants' as would entitle the landlord to sustain an ejectment under the intended clause of re-entry on breach of any one of such intended 'usual covenants,' although demised, never prepared, beyond receiving instructions for its preparation?

"Would the landlord be entitled (on such agent's bare minutes), and could he successfully in law sustain an action for damages sufficient to cover the amount of rent due and unpaid, also treat the intended lease as forfeited by tenant's breach of these intended covenants, as if the demise had been duly prepared and executed between the parties?

"Is it the usual and invariable custom and practice of solicitors to insert a clause of re-entry on non-payment of rent, or assigning without leave, when preparing leases for terms of years?

"Can a court of law take upon itself to determine or treat this case as though a lease had been in fact executed between the parties, and assist the landlord in his action of ejectment under an assumption that a clause and power of re-entry would have been inserted along with 'the usual covenants' for non-payment of rent, &c.?"

Under the direction of the Chief Justice, a verdict was taken for the plaintiffs; and of the questions raised for the defendant, three, we are told, were selected for argument next term. Which three the reporter does not say; but the questions, we presume, are, these:—1st. Are the minutes of letting made by an agent, and neither shown to the lessor nor the lessee, binding on them, so as to form the basis of a lease by which both will be bound? 2nd. Is a clause of re-entry on non-payment of rent, or assignment without leave, a usual covenant in a lease for years? 3rd. Will the court allow a landlord to avail himself of the benefit of the statute 4 Geo. 2, c. 28, on such minutes only, before the actual execution of the lease? We shall not presume to give our opinion on these questions, although we have one. The decision will, in all probability, be given next term. As a caution both to landlords and agents, the insertion of the case appears useful, notwithstanding that the final determination is postponed.

The Temperance Societies of Liverpool are about to erect a monument to the great apostle of their cause, Father Mathew. One to another great philanthropist, the Abbé de l'Épée, is to be inaugurated at Versailles on the 25th of the present month. A monument is also about to be erected in the Church of the Friars, at Venice, to the memory of Titian. The sculptor is Zandomeneghi. The society for erecting statues of celebrated Tuscans has recently exhibited at Florence the productions of this year, which consist of a statue of Boccaccio, by Fantacchiotti, and of Orgagna, by Bazzanti. Last year the statues were Dante, Michael Angelo, Leonardo da Vinci, and Lorenzo il Magnifico. The number of niches to be filled by the society is twenty-eight. The bronze statue of Rubens was last week placed upon its pedestal in the Place Verte, at Antwerp. The figure itself is 14 feet high, and weighs 20,000 lb. The whole monument rises to 30 feet. The inauguration was celebrated with music from the bands of the regiments quartered in the garrison, and the amateur societies of the city. At night the Place Verte was illuminated.

HUNT'S PATENT GARDEN-POT AND STAND.

We might be spared any observations of our own in favour of this invention by quoting from the various standard authorities on gardening, for there is hardly one under whose review it has not already passed, and that too, in the most favourable terms; but we have a twofold privilege to have our own say on the subject. First, it is included under that general head which pertains to the finished building operations where gardening and the greenhouse form the concluding touches of the architect and designer's hand; and, secondly, it relates to that section of builders' manufacture, the clay-field and earthenware products. The peculiarity of the invention is such as to ensure,

1st. A complete drainage, the under part of the hold in the bottom being so that the pot is made to stand an inch or more from the ground.

2nd. A complete current of air under the pots, however thickly they may stand.

3rd. They prevent the roots of plants growing into the earth.

The construction is such, in fact, that most, if not all the desiderata in a garden pot are obtained, whether by the use of pot itself placed in an ordinary saucer, or with an ordinary pot placed in Mr. Hunt's improved saucer. The pot may be said to stand upon legs, and the saucer has a perforated ledge to sustain the base of the pot. Many of the articles are manufactured in what is called the Lambeth stone, a species of china or delf, of agreeable colour, and equally choice as to design, so that as ornaments for the vestibule, the balcony, the terrace, and down to the common cottage window, they are to be preferred.

MANUFACTURE OF MOSAIC AT ROME.

It is well known that mosaic work consists of variously-shaped pieces of coloured glass enamel, and when these pieces are cemented together, they form those regular and other beautiful figures which constitute tessellated pavements. The principal manufactory of mosaic is at Rome, and belongs to his Holiness the Pope. The enamel, consisting of glass mixed with metallic colouring matter, is heated for eight days in a glass-house, each colour in a separate pot. The melted enamel is taken out with an iron spoon, and poured on polished marble placed horizontally, and another flat marble slab is laid upon the surface, so that the enamel cools into the form of a round cake, of the thickness of $\frac{1}{4}$ of an inch. In order to divide the cake into smaller pieces, it is placed on a sharp steel anvil, called tagliolo, which has the edge uppermost, and a stroke of an edged hammer is given on the upper surface of the cake, which is thus divided into long parallelopipeds or prisms, whose bases are $\frac{1}{4}$ of an inch square. These parallelopipeds are again divided across their length by the tagliolo and hammer into pieces of the length of $\frac{1}{4}$ of an inch, to be used in the mosaic pictures. Sometimes the cakes are made larger and thicker.

For smaller pictures the enamel whilst fused is drawn into long parallelopipeds, or quadrangular sticks, and these are divided across by the tagliolo and hammer, or by a file; sometimes also these pieces are divided by a saw without teeth, consisting of a blade of copper and emery, and are polished on a horizontal wheel of lead with emery.

Gilded mosaic is formed by applying the gold-leaf on the hot surface of a brown enamel; immediately after the enamel is taken from the furnace, the whole is put into the furnace again for a short time, and when it is taken out, the gold is firmly fixed on the surface. In the gilded enamel used in mosaic at Rome there is a "thin, transparent coat of glass over the gold."

ALIGUO.

The German papers announce that the King of Bavaria has determined on the decoration of the Cathedral of Spire. A beautiful font and a fine organ have already been placed in it, as also a monument to the Emperor Rudolph, of Hapsburg, by Schwanthaler. The frescoes have been intrusted to the painter Johann Schrandolph. The nave is to be decorated with frescoes from the life of the Virgin Mary, and the choirs with incidents from the history of St. Stephen and St. Bernard. A bronze statue of an Amazon has recently been finished by Prof. Kitz, and placed in front of the eastern flight of steps of the museum at Berlin. Ranch is commissioned to execute a group of Hercules and the Nemean Lion for the western flight.